THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.6452 of 2006

31.3.2006

Between:

Uppuluri Venkata Satyanarayana, S/o.Venkataratnam

… Petitioner

AND

The Revenue Divisional Officer,

Narsapur Division, Narsapur,

West Godavari District.
and others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.6452 of 2006

ORDER:

The petitioner claims to be owner of land admeasuring Acs.1.80 in R.S.No.236/3 of Kummarapurugu (K.P.) palem village of Mogalthur Mandal in West Godavari District. He purchased the land under an agreement of sale dated 06.1.1986 from one Smt.Kollati Suryakantham. He filed a suit being O.S.No.18 of 1990 on the file of the Court of Senior Civil Judge, Narsapur, for specific performance of agreement of sale, when the vendor in the agreement failed to execute the sale deed. During the pendency, the original vendor died and her legal heirs are brought on record. The petitioner also impleaded fourth respondent herein as 12th defendant in the suit. Be that as it is, the suit was decreed on 06.9.1999. Aggrieved by the same, the defendants filed A.S.No.170 of 1999, which was dismissed on 30.9.2004. Aggrieved by which, they filed second appeal being S.A.No.1647 of 2004 and also filed an application for interim stay. This Court stayed the execution of the decree. It is now alleged that the third respondent started constructing houses under Tsunami Rehabilitation Scheme and that the fourth respondent is not a party in the second appeal. The petitioner gave a legal notice to the respondents 1 to 3 on 12.1.2006, in vain. Therefore, the present writ petition is filed seeking a writ of Mandamus declaring the action of the respondents 1 to 3 in proceeding with the construction of houses under Tsunami Rehabilitation Scheme as illegal and arbitrary.

After hearing learned Counsel for petitioner for some length of time, this Court is

convinced that the dispute raised in this writ petition is in the realm of private law dispute, though the respondents 1 to 3 are proceedings with construction. Now that the second appeal is pending before this Court, it is open for the petitioner to pursue the second appeal for taking appropriate orders insofar as the fourth respondent is concerned, and also seek appointment of Advocate commissioner for protection of property. Secondly, when the suit is for specific performance of agreement of sale and the same was decreed by the trial Court, any subsequent sale or change in the nature of property is subject to doctrine of *Lis pendens*.

The Writ petition, with the above observations, is dismissed. No costs.

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(**V.V.S.RAO,J**)

March 31, 2006.

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